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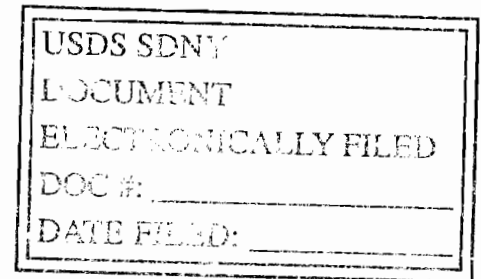
February 3, 2011

MEMO ENDORSED

† ALSO ADMITTED IN NEW YORK
° ALSO ADMITTED IN NEVADA
* ALSO ADMITTED IN NEW JERSEY

VIA FEDERAL EXPRESS

Hon. Kenneth M. Karas
United States Courthouse
Southern District of New York
300 Quarropas St.
White Plains, NY 10601-4150



Re: Trustees of the Police & Fire Ret. Sys. v. Clapp, No. 08-cv-01515 (KMK) (GAY)

Dear Judge Karas:

We represent the Trustees of the Police & Fire Retirement System of the City of Detroit ("Plaintiff"). We write in regard to the December 14, 2010 oral argument at which Your Honor directed Defendants to formally file their motion to dismiss in order to complete the record.

On December 15, 2010 Defendants filed their Motion to Dismiss, Docket Nos. 61-63. However, this filing was incomplete. The Notice of Motion, Docket No. 61, references the Declaration of Daniel K. Roque and accompanying Exhibits. However, the Roque Declaration and Exhibits were not filed.

On pages 63 through 64 of the transcript, attached hereto, Your Honor directs that Defendants formally file their motion so that the record accurately reflects the issues that were briefed and documents reviewed. Specifically, Your Honor directs that:

THE COURT: I think the record should reflect everything that was considered by, by --

MR. CORBETT: Fair enough, Your Honor.

THE COURT: Well, tendered by the parties and considered by Judge Yanthis and myself.

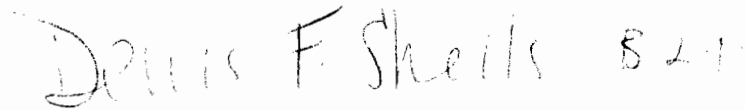
MR. CORBETT: We will follow that, Your Honor.

Transcript of Oral Argument, December 14, 2010, p 64, lines 3-8.

Clearly the Documents in the Roque Declaration and the accompanying Exhibits were "tendered by the parties and considered" by both Your Honor and Judge Yanthis and therefore fall within the scope of the documents that Your Honor directed Defendants to file.

Plaintiff wrote to Defendants via letters dated December 16, 2010 and January 28, 2011 notifying Defendants of the filing deficiency and requesting that the Roque Declaration and accompanying Exhibits be filed, but Defendants have refused to file these documents via letters dated December 20, 2010 and February 2, 2011. Plaintiff wishes to avoid motion practice, but wishes to bring to your attention the repeated refusal by Defendants to honor the direction given by Your Honor at oral argument.

Respectfully,

A handwritten signature in dark ink that reads "DENIS F. SHEILS" followed by the number "821".

Denis F. Sheils

cc: Donald A. Corbett, Esq. (via email)
Gregory M. Nespole, Esq. (via email)
Robert N. Shwartz, Esq. (via email)

Defendants are to respond to
this letter by February 14, 2011.

So ordered.

A handwritten signature in dark ink, appearing to be "AK" followed by a stylized flourish.

2/7/11